

*Interview
was with co-pending
08/325,552.*

I. EXAMINER INTERVIEW SUMMARY

On March 10, 1995, an interview was held between Examiner J. Nguyen and Applicant's attorney, Todd A. Rathe. The merits of the claims were discussed. However, no agreement was reached.

II. REJECTION OF CLAIMS 1, 2 AND 12-17 UNDER 35 U.S.C. § 112

The Examiner rejected claims 1, 2 and 12-17 under 35 U.S.C. § 112 as being indefinite for failing to particularly point and distinctly claim the subject matter of the invention. In particular, the Examiner asserted that "free from attachment" in claims 1 and 17 is not clear. In response, claims 1 and 17 are amended to recite "free from attachment to the container." The Examiner further asserted that "freely retaining" in claim 17 is not clear in the context. Claim 17 is amended to recite "means for retaining the spool vertically and concentrically within the container free from attachment to the container so that the spool may be removed from the container as one piece." As suggested by the Examiner, claim 1 is further amended to insert --vertically-- after "column" and --an exterior of-- is inserted before "base".

The Examiner was unclear as to meaning or location of several elements of the claims. In particular, the Examiner was confused as to where the first access hole is located in claims 1 and 17. Claims 1 and 17 are amended to clarify that the first access hole is defined by the sidewall of the container. The Examiner is further unclear as to the purpose of the mounting holes in claim 1. To clear up the Examiner's confusion, claim 1 is amended to recite "the footplate including mounting holes which extend through the footplate for mounting the device." In claim 14, the Examiner was confused as to what the term "overlapping" is relative to the limitations of claim 14 are incorporated in claim 1. Claim 1 is amended to recite that "the overlapping edge protrudes over the interior of the container to overlap a portion of the top of the spool to hold the spool within the container when the device is mounted in a horizontal orientation." The Examiner further inquired as to the structure of "releasably coupled" in claim 14. Claim 1 recites that "the retainer is releasably coupled to the container." "Releasably coupled" is a verb and therefore has no structure. In claim 17, the Examiner is confused as to

what "concentrically" is relative to. Claim 17 recites means for "retaining the spool vertically and concentrically within the container." (Emphasis added). Based upon the above remarks and amended claims, it is believed that claims 1, 2 and 15-17 overcome the Examiner's rejection under 35 U.S.C. § 112 and are in condition for allowance.

III. REJECTION OF CLAIMS 1, 2 AND 12-17 UNDER 35 U.S.C. § 103
BASED ON HARRILL IN VIEW OF CHONG

The Examiner rejected claims 1, 2 and 12-17 under 35 U.S.C. § 103 as being unpatentable over Harrill U.S. Patent 4,224,536 in view of Chong U.S. Patent 4,015,795. The Examiner's rejection of the above claims is improper and should be withdrawn. Reconsideration and allowance of the above claims are requested.

Independent claim 1, as amended, is directed to a device for storing an elongate flexible member which includes a container, a spool disposed within the container free from attachment to the container, a footplate, a retainer and means for rotating the spool within the container. The container includes a base, a sidewall and a first access hole defined by the sidewall. The spool includes a bottom which freely rests upon the base of the container. Because the spool freely rests upon the base, the spool may be rotated within the container and may also be easily lifted and removed from the container. This feature is critical in a working environment where the insides of the container and the spool are likely to become contaminated with dirt, mud, grease and other contaminants which prevent the spool from being easily rotated, which soil the elongate flexible member and which decrease the overall operational safety of the container. Because the spool can be easily removed, the container, spool and elongate flexible member can be easily cleaned and conditioned.

The spool further includes a top having a second access hole. The top defines an upper surface for containing the flexible member within the bucket. At the same time, the top and the bottom of the spool contain and prevent the elongate flexible member from becoming unwound over an end of the spool even when the spool is removed from the container.

The footplate is secured to an exterior of the base of the container and includes mounting holes which extend through the footplate. The mounting holes permit the container containing the spool to be mounted adjacent a structure such as a wall.

The device further includes a retainer releasably coupled to the container for holding the spool within the container when the device is mounted to a structure such as a sidewall. The retainer includes a locking rim which surrounds and engages the rim of the container to releasably couple the retainer to the container and further includes an overlapping edge which protrudes over the interior of the container to overlap a portion of the top of the spool to hold the spool within the container. As a result, the retainer prevents the spool from accidentally sliding out of the container. In addition, because the retainer is releasably coupled to the rim and has an overlapping portion which protrudes over the interior of the container to overlap a portion of the spool, the retainer does not attach the spool to the container. Moreover, because the locking rim of the retainer releasably engages the rim of the container, the retainer may be easily removed to permit the spool to be withdrawn from the container for cleaning and conditioning the container, the spool and the elongate flexible member.

Neither Harrill nor Chong disclose, teach or suggest a device including a spool having a top and a bottom which freely rests within the container and a retainer having a locking rim which releasably couples the retainer to the rim of the container for holding the spool within the container. In contrast, Harrill discloses spool 28, 30 rotatably mounted to housing 12. Harrill does not teach or suggest a spool having a top and a bottom which freely rests within the container. As a result, even assuming, arguendo, that it were obvious to provide the reel of Harrill with cover 32 of Chong, removal of cover 32 would not enable one to remove spool 28, 30 for cleaning and conditioning.

Furthermore, it would not be obvious to modify the spool of Harrill to have a bottom which freely rests within container or housing 12. As shown by Figures 1 and 2 of Harrill, the "base" of housing 12 is not rearwall 18, but is instead leg portion 66,68. Handle 64 is located opposite leg portion 66,68. Consequently, container 12 is operated and carried with the sidewalls in a generally horizontal orientation. As a result, it is necessary for Harrill to

rotatably mount the spool within housing 12 to guide the rotation of the spool within housing 12 and to prevent the spool from falling out of housing 12 during operation and transportation of the device. Accordingly, it is necessary for Harrill to provide threaded fastener 54 for rotatably mounting the spool to housing 12. The Examiner asserts that it would be obvious to a person having ordinary skill in the art to eliminate threaded fastener 54 of Harrill. However, in contrast to the Examiner's assertions, it is neither obvious nor feasible to eliminate threaded fastener 54 of Harrill. Threaded fastener 54 of Harrill is indispensable for maintaining spool 28, 30 within the container during transport and for concentrically and vertically retaining the spool during rotation of the spool. The elimination of threaded fastener 54, as suggested by the Examiner, would cause the spool to tip and become pinched against the container which would inhibit rotation of the spool. In addition, the tipped bottom of the spool would also permit the cable to become unwound and jammed beneath the portion of the spool which is tipped upward. As a result, it would not be prudent nor obvious to eliminate threaded fastener 54 as suggested by the Examiner.

Chong also fails to teach or suggest a top and a bottom which freely rests within the container and a retainer having a locking rim which releasably couples the retainer to the rim of the container for holding the spool within the container. Chong specifically states that pan 16 is "rotatably mounted on table 10 by means of a first ball bearing assembly 18." Similarly, Chong specifically states that turntable 26 is "rotatably mounted on pan 16 by a second, smaller diameter ball bearing assembly 28." (See Col. 2, lines 6-7 and lines 11-12). If, as the Examiner apparently asserts, the term "rotatably mounted" meant "not attached", the device of Chong would be inoperable as pan 16 and bearing assembly 18 would fall off table 10 during the dispensing of cable 24. Thus, it is clear that Chong fails to show or suggest a spool having a bottom freely resting and supported upon but not attached to the base of the bucket to allow the spool to be lifted and removed from the bucket. As a result, turntable 26 of Chong cannot be easily lifted and removed from the bucket. Thus, cleaning and conditioning of the bucket, the spool and the flexible member requires additional tools and time.

Furthermore, because Chong fails to teach or suggest both top and bottom plates having peripheral edges which engage the sidewalls to concentrically and vertically retain and guide spool within the bucket and which also contain and support the elongate flexible member when the spool is removed from the bucket. It would not be obvious to one of ordinary skill in the art to modify Chong such that the spool is disposed within the container free from attachment. The spool of Chong must be rotatably mounted to the base of the container so that the spool remains concentrically and vertically retained within the container. Because the spool of Chong lacks a top plate, merely placing the bottom of the spool within the container would not vertically retain the spool within the container. As a result, the spool within the container would tip and become pinched against the sidewalls and the base which would inhibit rotation of the spool. Furthermore, the tipped bottom of the spool would also permit the cable to become unwound and jammed beneath the portion of the spool which is tipped upward. In addition, removing the spool of Chong from its container would cause the flexible member to unwind over the top of column 30 since Chong fails to teach or suggest a top. As a result, it would not be a prudent nor obvious to freely rest the bottom of the spool of Chong on the base of the container.

The Examiner asserts that it would have been obvious to one of ordinary skill in the art to provide the spool of Harrill as being unattached to the container as taught by Chong. However, as discussed above, it is clear that Chong fails to disclose, teach or even suggest a spool which is unattached to the container. The Examiner's reliance upon Chong for this teaching is clearly misplaced.

Moreover, even assuming, arguendo, that it were obvious to modify the spool of Harrill so as to be unattached to the container, such a combination would still fail to teach or suggest a retainer including a locking rim which surrounds and engages the rim of the container to releasably couple the retainer to the container wherein the retainer includes an overlapping edge which protrudes over the interior of the container to overlap a portion of the top of the spool to hold the spool within the container. The Examiner asserts that cover 32 of Chong constitutes a retainer and that it would be obvious to provide the spool of Harrill with cover 32 of Chong. However, neither Harrill nor Chong provide any suggestion or motivation for

providing the spool of Harrill with cover 32 of Chong. Furthermore, because cover 32 of Chong performs a completely different function than that of the retainer of Applicant's invention, and because the function of cover 32 in Chong is already performed by the spool of Harrill, it would not be obvious to modify Harrill to additionally include cover 32 of Chong. Because the "spool" of Chong does not include a top, the "spool" of Chong does not define an upper surface for containing the cable within pan 16. Consequently, the cable dispenser of Chong includes cover 32. Cover 32 prevents coils of cable 24 from jumping over cone 30. Because turntable 26 is "rotatably mounted to pan 16" (See Col. 1, lines 39-42; Col. 2, lines 33-37), cover 32 is not provided for holding the spool within the container. Thus, it is clear that cover 32 of Chong does not perform the same function as the retainer of Applicant's invention.

Similar to Chong, the spool of Harrill is also rotatably mounted to the container by threaded fastener 54. Thus, a retainer is not necessary for maintaining the spool of Harrill within the container. In addition, because the spool of Harrill includes a top, it would not be obvious to additionally provide cover 32 of Chong in conjunction with the spool of Harrill. The top of Harrill prevents extension cords from unwinding over the top of the column of the spool of Harrill. Cover 32 of Chong performs this exact same function. The top of the spool of Harrill and cover 32 of Chong both retain the cable or cord around the central column of the spool when the spool is within the container. As a result, to additionally add cover 32 to the spool the device of Harrill would be redundant. Because both the spool of Harrill and the spool of Chong are rotatably mounted to their respective containers, absent Applicant's teaching of using a retainer to hold the spool within the container when positioned in a generally horizontal orientation, no teaching or suggestion exists in either Harrill or Chong for combining cover 32 of Chong with the spool of Harrill. The Examiner's combination of these two features and rejection of independent claims 1 and 17 relies upon impermissible hindsight. Independent claims 1 and 17, as amended, overcome the Examiner's rejection and are in condition for allowance. Claims 2 and 15-16 dependent from independent claim 1 and are also in condition for allowance.

**IV. REJECTION OF CLAIM 2 UNDER 35 U.S.C. § 103
BASED ON HARRILL IN VIEW OF CHONG**

Claim 2, as amended, is directed to the device of claim 1 wherein the retainer comprises a ring along the sidewall of the container and wherein the means for rotating the spool within the container includes a turning knob eccentrically coupled to the top of the spool within the ring. Because the retainer comprises a ring along the sidewall of the container, the turning knob may be eccentrically coupled to the top of the spool within the ring. Because the turning knob may be eccentrically coupled to the top of the spool, sufficient torque can be generated to turn the spool to wind even heavy elongate flexible members around the spool.

Chong fails to disclose, teach or suggest a retainer which comprises a ring along the sidewall of the container. In contrast, cover 32 projects substantially near the center of pan 16. Because cover 32 is provided for preventing coils of cable 24 from jumping over cone 30, cover 32 must extend into pan 16 into close proximity with cone 30. As a result, even assuming, arguendo, that it would be obvious to add the top of Harrill to Chong, it would not be feasible to eccentrically couple a turning knob to the top of the spool within the ring so as to enable sufficient torque to be generated for winding heavier flexible members around the spool. Thus, claim 2, as amended, overcomes the Examiner's rejection and is in condition for allowance.

V. ADDED CLAIMS 18-37

With this Amendment, claims 18-37 are added. Claims 18-37 correspond to claims 1-5, 7-9, 11-17, 19-22 and 24, respectively, in the parent application, application Serial No. 08/325,552. However, for the convenience of the Examiner and for ease of examination, those claims of the parent application, application Serial No. 08/325,552 have been added to the above-identified patent application and have been renumbered consecutively.

In parent application Serial No. 08/325,552, claims 1-5, 7-9, 11-17, 19-22 and 24 (corresponding to claims 18-37) were rejected. In response to the Examiner's rejection in the parent application Serial No. 08/325,552, former claims 1-5, 7-9, 11-17, 19-22 and 24 have been amended and renumbered as claims 18-37 in the present application. For ease of examination by the Examiner, the changes or amendments to former claims 1-5, 7-9, 11-17, 19-22 and 24 are

identified below using conventional brackets and underlying. Based upon the changes made to the former claims 1-5, 7-9, 11-17, 19-22 and 24 and the following remarks, it is believed that newly added claims 18-37 overcome the Examiner's previous rejections in parent application Serial No. 08/325,552 and are in condition for allowance. Former claims 1-5, 7-9, 11-17, 19-22 and 24 have been amended and renumbered as follows:

18. (Former claim 1, amended) A device for storing an elongate flexible member having a length, a first end and a second end, the device comprising:

- a bucket having a base, a cylindrical sidewall integrally extending upward from the base, a first access hole defined by the sidewall, and a handle coupled to the sidewall for carrying the bucket so that the sidewall of the bucket is substantially upstanding;

- a spool disposed within the bucket, the spool comprising:

- a bottom having a round bottom plate and bearing means coupled to the bottom plate for freely resting and supporting the spool upon the base so that the spool is free from attachment within the bucket to allow the spool to be rotated within the bucket and to allow the spool to be lifted and removed from the bucket, a round top plate having a second access hole extending therethrough, and a column vertically mounted between the round top plate and the round bottom plate independent of the base, the column having an outer surface for winding the length of flexible member around, wherein the round top plate retains the elongate flexible member concentrically around the outer surface of the column when the spool is within the bucket and when the spool is removed from the bucket and wherein the sidewall engages peripheral edges of both the round top and bottom plates of the spool to concentrically and vertically retain the spool within the bucket during rotation of the

spool, wherein the second end of the flexible member passes through the second access hole and wherein the first end of the flexible member passes through the first access hole of the bucket; and

means for rotating the spool within the bucket to wind the flexible member around the column.

22. (Former claim 5, amended) The device of claim [1] 18 wherein the column further includes a cavity bounded by the outer surface extending from the outer surface to the second access hole, wherein the second end of the flexible member passes through the cavity and through the second access hole and wherein the first end of the flexible member passes through the first access hole of the bucket.

26. (Former claim 11, amended) The device of claim [1] 18 wherein the first access hole of the bucket comprises an elongate slot extending through and [substantially] a substantial length of along the side wall of the bucket from near the bottom plate to near the top plate of the spool to permit the flexible member to be wound substantially around the entire outer surface of the column.

33. (Former claim 19, amended) The device of claim [1] 18 further including a foot plate secured to the base of the bucket, wherein the foot plate has a substantially horizontal portion extending beyond the sidewall so as to permit force to be applied to the foot plate for stabilizing the bucket during rotation of the spool.

34. (Former claim 20, amended) The device of claim [1] 18 wherein the top plate comprises a generally flat disk and wherein the disk defines the second access hole.

35. (Former claim 21, amended) The device of claim [20] 34 wherein the top plate further includes a brace extending across the disk.

37. (Former claim 24, amended) A device for storing an elongate flexible member having a length, a first end and second end, the device comprising:

- a container having a base, a sidewall and a first access hole defined by the sidewall;

- a spool disposed within the container, the spool including:

- a bottom freely resting upon but not attached to the base of the container to allow the spool to be rotated within the container and to allow the spool to be lifted and removed from the container;

- [the] a top having a second access hole; and

- a column vertically mounted between the top and the bottom independent of the base, the column having an outer perimeter for winding the length of flexible member around, wherein the first end of the flexible member passes through the second access hole, the length of the flexible member winds around the column and the second end of the flexible member passes through the first access hole of the container;

- a foot plate fixedly coupled to the base of the container, wherein the foot plate includes a substantially horizontal portion which extends beyond the sidewall so as to permit force to be applied to the foot plate of the container for stabilizing the container during rotation of the spool [and removed of the spool from the container]; and
- means for rotating the column within the container.

**A. REJECTION OF FORMER CLAIMS 1-5, 7-9, 11-17, 19-22 AND 24
(CORRESPONDING TO CLAIMS 18-37) UNDER 35 U.S.C. § 112**

The Examiner rejected claims 1-5, 7-9, 11-17, 19-22 and 24 under 35 U.S.C. § 112 as being indefinite for failing to particularly point and distinctly claim the subject which Applicant regards as the invention. With respect to claim 11 (corresponding to claim 26), the Examiner was unclear as to the meaning of "along the side wall". Claim 11 previously recited "first access hole of the bucket comprises an elongate slot through and substantially along the side wall of the bucket . . .". In response to the Examiner's confusion, claim 11 renumbered as claim 26, is amended to recite "the first access hole of the bucket comprises an elongate slot extending through and along a substantial length of the side wall upward from the base of the bucket to permit the flexible member to be wound substantially around the entire outer surface of the column."

The Examiner was also unclear as to "and removed . . . container" in claim 24 (corresponding to claim 37), at the second line from the bottom of the claim. Claim 24, renumbered as claim 37, is amended to delete "and removed . . . container" which was a typographical error.

The Examiner was also unclear as to the function of the bearing means in claim 1 (corresponding to claim 18). Claim 1 previously recited "a bottom having a round bottom plate and bearing means for freely resting upon the base so that the spool is free from attachment within the bucket to allow the spool to be rotated within the bucket and to allow the spool to be lifted and removed from the bucket." In an attempt to clear up the Examiner's confusion, claim 1, renumbered as claim 18, is amended to recite "a bottom having a round bottom plate and bearing means coupled to the bottom plate for freely resting and supporting the spool upon the base so that the spool is free from attachment within the bucket to allow the spool to be rotated within the bucket and to allow the spool to be lifted and removed from the bucket."

Lastly, the Examiner is unclear as to exactly where the second access hole is located in claims 1 (corresponding to claim 18) and 24 (corresponding to claim 37) and where the hole is located in claim 22 (corresponding to claim 36). Claim 1 (now claim 18) recites "a

round top plate having a second access hole extending therethrough." Claim 24 (now claim 37), recites "a top having a second access hole." Claim 22 (now claim 36) recites "a top plate having a top surface, a bottom surface, and a hole extending from the top surface to the bottom surface." During the telephone interview conducted on March 10, 1995, the Examiner acknowledged that the location of the second access holes in claims 18 and 37 and the location of the hole in claim 36 is clear. Based upon the above remarks and amended claims, it is believed that claims 18-37 (corresponding to claims 1-5, 7-9, 11-17, 19-22 and 24) overcome the Examiner's rejection based upon 35 U.S.C. § 112.

B. REJECTION OF CLAIMS 1-5, 8, 11, 14, 19-22 AND 24
(CORRESPONDING TO CLAIMS 18-22, 24, 26, 29, 33-36 AND 37)
UNDER 35 U.S.C. § 103 BASED ON HARRILL IN VIEW OF CHONG

The Examiner rejected claims 1-5, 8, 11, 14, 19-22 and 24 (corresponding to claims 18-22, 24, 26, 29, 33-36 and 37) under 35 U.S.C. § 103 as being unpatentable over Harrill U.S. Patent 4,244,536 in view of Chong U.S. Patent 4,015,795. Claims 1, 11, 19 and 24 are amended and are renumbered as claims 18, 26, 33 and 37. Claims 18-22, 24, 26, 29, 33-36 and 37 overcome the Examiner's rejection and are in condition for allowance.

Independent claims 18 and 36 (corresponding to former claims 1 and 22) are directed to a device for storing an elongate flexible member which includes a bucket and a spool disposed within the bucket. The bucket includes a base, a cylindrical sidewall integrally extending from the base, a first access hole defined by the sidewall, and a handle coupled to the sidewall for carrying the bucket so that the sidewall of the bucket is substantially upstanding. The spool includes a bottom having a round bottom plate and bearing means coupled to the bottom plate for freely resting and supporting the spool upon the base so that the spool is free from attachment within the bucket. The spool also includes a round top plate and a column vertically mounted between the bottom round plate and the top round plate. The top plate retains the elongate flexible member concentrically around the outer surface of the column when the spool is within the bucket and when the spool is removed from the bucket. The sidewalls of the bucket engage peripheral edges of the top and bottom plates of the spool to concentrically and

vertically retain the spool within the bucket during rotation of the spool. Because the spool is disposed within the bucket which is transported and operated with the sidewall in a substantially upstanding orientation, and because the sidewall also vertically and concentrically retain or guide the spool during rotation, the spool does not need to be mounted to the bucket in any fashion. Moreover, because the column or the tube is mounted between the top and the bottom independent of the base, the spool in its entirety can be lifted from the bucket while still containing and supporting the elongate flexible member. As a result, the spool is free from attachment and can be lifted and removed from the bucket. This feature is critical in a working environment where the insides of the bucket and the spool are likely to become contaminated with dirt, mud, grease, and other contaminants which prevent the spool from being easily rotated, which soil the elongate flexible member and which decrease the overall safety of the bucket and the flexible member. Because the spool can be easily removed, the bucket, spool and elongate flexible member can be easily cleaned and conditioned.

Neither Chong nor Harrill, alone or in combination teach, disclose or suggest a device including a spool which can be easily lifted and removed from the container to permit cleaning and conditioning of the bucket, the spool and the elongate flexible member. As discussed above, Applicant's device achieves this advantage with several key features. First, the sidewall of the bucket integrally extends upward from the base of the bucket. As a result, gravity maintains the spool within the bucket when the bucket and spool are being transported between locations. Second, the spool includes both a top and a bottom plate. The top plate and the bottom plate perform two functions. The plates retain the elongate flexible member around the column when the spool is disposed within the bucket and also when the spool is removed from the bucket. At the same time, the plates have peripheral edges which engage the sidewalls of the bucket to concentrically and vertically retain the spool within the bucket as the spool is being rotated. Third, the bottom of the spool includes bearing means which freely rest and support the spool upon the base of the bucket so that the spool is free from attachment within the bucket. These three features enable the spool of Applicant's invention to be easily lifted and removed from the bucket for cleaning and conditioning. Failure to include any one of these features would

prevent the spool from easily being lifted from the container. For example, failing to provide sidewall which extends upward from the base would require the spool to be mounted to the bucket in order to prevent the spool from accidentally falling out of the bucket during transport. Rotatably mounting the spool to the base of the container would obviously prevent the spool from being lifted from the container when desired. Moreover, because the top and the bottom are needed for containing the elongate flexible member around the column of the spool when the spool is removed from the container, failing to provide either a top or a bottom would also prevent the spool from being lifted from the container. ^a

Neither Chong nor Harrill, alone or in combination, disclose, teach or suggest a device which includes each and every one of these three key elements which are necessary to permit the spool to be easily lifted and removed from the container. Harrill fails to teach or suggest a bucket having side walls extending upward from the base so that gravity maintains the spool within the bucket during transport. As shown by Figures 1 and 2 of Harrill, the "base" of housing 12 is not rearwall 18, but is instead leg portion 66,68. Handle 64 is located opposite leg portion 66,68. Consequently, container 12 is operated and carried with the sidewalls in a generally horizontal orientation. As a result, it is necessary for Harrill to rotatably mount the spool within housing 12 to guide the rotation of the spool within housing 12 and to prevent the spool from falling out of housing 12 during operation and transportation of the device. Accordingly, it is necessary for Harrill to provide threaded fastener 54 for rotatably mounting the spool to housing 12. Harrill fails to teach or suggest bearing means for freely resting and supporting the spool upon the base so that the spool is free from attachment within the bucket.

Furthermore, Harrill also fails to teach or suggest a spool having top and bottom plates with peripheral edges which engage the side walls of the bucket to concentrically and vertically retain the spool within the bucket as the spool is being rotated. The spool of Harrill must be rotatably mounted to the container so that the spool remains concentrically and vertically retained within the container during rotation of the spool.

The Examiner asserts that it would be obvious to a person having ordinary skill in the art to eliminate threaded fastener 54 of Harrill. However, in contrast to the Examiner's

assertions, it is neither obvious nor feasible to eliminate threaded fastener 54 of Harrill. Threaded fastener 54 of Harrill is indispensable for maintaining spool 28, 30 within the container during transport and for concentrically and vertically retaining the spool during rotation of the spool. Because Harrill fails to teach or suggest a spool having round top and bottom plates which have peripheral edges which engage the side walls, the device of Harrill must include threaded fastener 54 to concentrically and vertically retain the spool during rotation. The elimination of threaded fastener 54, as suggested by the Examiner, would cause the spool to tip and become pinched against the container which would inhibit rotation of the spool. In addition, the tipped bottom of the spool would also permit the cable to become unwound and jammed beneath the portion of the spool which is tipped upward. As a result, it would not be prudent nor obvious to eliminate threaded fastener 54 as suggested by the Examiner.

Chong fails to disclose, teach or suggest either a spool having top and bottom plates or a spool having a bottom with bearing means which freely rests and supports the spool upon the base of the bucket so that the spool is free from attachment within the bucket. In contrast, turntable 26 of Chong is "rotatably mounted on and within pan 16." (See Col. 2, lines 33-37; Col. 1, lines 39-42). In fact, Chong specifically states that cover 32 may be removed to replenish the supply of cable 24 within the dispenser. (See Col. 2, lines 56-57). However, Chong fails to provide any teaching or suggestion that turntable 26 may also be removed.

Moreover, Chong specifically states that pan 16 is "rotatably mounted on table 10 by means of a first ball bearing assembly 18." Similarly, Chong specifically states that turntable 26 is "rotatably mounted on pan 16 by a second, smaller diameter ball bearing assembly 28." (See Col. 2, lines 6-7 and lines 11-12). If, as the Examiner apparently asserts, the term "rotatably mounted" meant "not attached", the device of Chong would be inoperable as pan 16 and bearing assembly 18 would fall off table 10 during the dispensing of cable 24. Thus, it is clear that Chong fails to show or suggest a spool having a bottom freely resting and supported upon but not attached to the base of the bucket to allow the spool to be lifted and removed from the bucket. As a result, turntable 26 of Chong cannot be easily lifted and removed from the bucket.

Thus, cleaning and conditioning of the bucket, the spool and the flexible member requires additional tools and time.

Furthermore, because Chong fails to teach or suggest both top and bottom plates having peripheral edges which engage the sidewalls to concentrically and vertically retain and guide spool within the bucket and which also contain and support the elongate flexible member when the spool is removed from the bucket. It would not be obvious to one of ordinary skill in the art to modify Chong such that the spool is disposed within the container free from attachment. The spool of Chong must be rotatably mounted to the base of the container so that the spool remains concentrically and vertically retained within the container. Because the spool of Chong lacks a top plate, merely placing the bottom of the spool within the container would not vertically retain the spool within the container. As a result, the spool within the container would tip and become pinched against the sidewalls and the base which would inhibit rotation of the spool. Furthermore, the tipped bottom of the spool would also permit the cable to become unwound and jammed beneath the portion of the spool which is tipped upward. In addition, removing the spool of Chong from its container would cause the flexible member to unwind over the top of column 30 since Chong fails to teach or suggest a top. As a result, it would not be a prudent nor obvious to freely rest the bottom of the spool of Chong on the base of the container.

The Examiner asserts that Applicant's invention is obvious over Harrill in view of Chong. In particular, the Examiner asserts that it would be obvious to modify Harrill to include the bearing table of Chong and to eliminate screw 54. However, as set forth above, neither Harrill nor Chong, include bearing means for freely resting and supporting the spool upon the base so that the spool is free from attachment within its bucket to allow the spool to be rotated within the bucket and to allow the spool to be lifted and removed from the bucket. In addition, neither Harrill nor Chong, alone or in combination, teach or suggest modifying either device so that the spool is removable from the bucket or container. Moreover, neither Chong nor Harrill suggest any motivation for incorporating features of the other in order to enable the spool to be removed from the bucket. Absent Applicant's teaching, no motivation exists in either Harrill or Chong for providing a container with a side wall extending upward from the base so

that gravity maintains the spool within the container during transport or for providing top and bottom plates which concentrically and vertically retain the spool within the bucket during rotation and also which retain the elongate flexible member when the spool is within the bucket and when the spool is removed from the bucket. Moreover, absent Applicant's teaching, neither Harrill nor Chong suggests a spool with bearing means freely resting and supporting the spool upon the base of the bucket so that the spool is disposed within the bucket free from attachment. The Examiner's rejection relies upon hindsight reasoning and is clearly impermissible. Claims 18-22, 24, 26, 29, 33-36 and 37 overcome the Examiner's rejection and are in condition for allowance.

**C. REJECTION OF FORMER CLAIM 19 (CORRESPONDING TO CLAIM 33)
UNDER 35 U.S.C. § 103 BASED UPON HARRILL IN VIEW OF CHONG**

Claim 33 (corresponding to former claim 19), is directed to the device of claim 18 and further includes "a foot plate secured to the base of the bucket, wherein the foot plate has a substantially horizontal portion extending beyond the sidewall so as to permit force to be applied to the footplate for stabilizing the bucket during rotation of the spool." As explained in the previous response filed on May 5, 1994, the foot plate permits the user to place at least one foot on the foot plate and to apply weight to the foot plate to stabilize the device while the spool is being wound or unwound. Because the foot plate permits the weight of the user to be used to stabilize the device, the device is more stably supported in position as the spool is rotated. At the same time, the foot plate allows the hands of the user to be free for rotating the spool and other activities such as wiping off the cord or flexible member. In addition, the foot plate also permits the user to stably support the bucket while the spool lifted and removed from the bucket for cleaning and conditioning.

Neither Chong nor Harrill disclose, teach or suggest "a foot plate secured to the base of the bucket, wherein the foot plate has a substantially horizontal portion extending beyond the sidewall so as to permit force to be applied to the footplate for stabilizing the bucket during rotation of the spool." In contrast, Chong merely shows table 10 rotatably mounted to pan 16. Table 10 does not include a substantially horizontal portion which extends beyond the sidewall

of pan 16. As a result, table 10 lacks sufficient surface area for receiving force from a user's foot or feet to stabilize the bucket while the spool is being rotated by the user's hands or other devices, or as the spool is being lifted from the bucket. As noted by the Examiner in the Office Action mailed on March 1, 1994, Harrill also fails to disclose a foot plate secured to the container base. Accordingly, claim 33 overcomes the Examiner's rejection and is also in consideration for allowance.

**D. REJECTION OF FORMER CLAIM 24 (CORRESPONDING TO CLAIM 36)
UNDER 35 U.S.C. § 103 BASED UPON HARRILL IN VIEW OF CHONG**

Independent claim 36 (corresponding to former claim 24) is directed to a device for storing an elongate flexible member. The device includes a container, a spool, a foot plate and means for rotating. The spool is disposed within the container and includes a bottom, a top, and a column vertically mounted between the top and the bottom independent of the base. The bottom rests upon but is not attached to the base of the container to allow the spool to be rotated within the container and to allow the spool to be removed from the container. As a result, the spool in its entirety and fully assembled may be easily removed from the container to allow the spool, the container, and the elongate flexible member to be cleaned and/or conditioned. The top includes a second access hole and the column has an outer perimeter for winding the length of the elongate flexible member around. In use, the first end of the flexible member passes through the second access hole, the length of the flexible member winds around the column and the second end of the flexible member passes through the first access hole of the container. The foot plate of the device is fixedly coupled to the base of the container and includes a substantially horizontal portion which extends beyond the sidewall so as to permit force to be applied to the foot plate for stabilizing the container. As a result, the user's weight may be applied to the foot plate with the user's feet to stabilize the device as the spool is rotated while allowing the user's hands to be free for rotating the spool or other activities. In addition, the foot plate enables the user to stabilize the device as the spool is being lifted from the container. Thus, the device of claim 24 permits an elongate flexible member to be quickly and easily wound up while the device is stabilized by the user's feet against the ground or surface. The device also permits the spool

to be quickly and easily removed from the container for cleaning and conditioning the spool, the container and/or the elongate flexible member.

Neither Harrill, nor Chong, alone or in combination, disclose, teach or suggest the device of claim 36. In particular, none of the references disclose, teach or suggest a spool having a bottom freely resting upon but not attached to the base of the container to allow the spool to be rotated within the container and to allow the spool to be removed from the container. Furthermore, none of the references disclose, teach or suggest a foot plate fixedly coupled to the base of the container, wherein the foot plate includes a substantially horizontal portion which extends beyond the sidewall of the container so as to permit force to be applied to the footplate for stabilizing the container during rotation of the spool and during removal of the spool from the container. Thus, independent claim 36 is patentably distinct over the prior art of record.

VI. PROVISIONAL OBVIOUSNESS-TYPE DOUBLE PATENTING REJECTION OF CLAIMS 1, 2 AND 17

The Examiner additionally provisionally rejected claims 1, 2 and 17 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 19, 22 and 24 of co-pending application Serial No. 08/325,549. The Examiner asserted that the scope of claims 1, 2 and 17 of the present application are encompassed in the above claims of the co-pending application. As mentioned above, newly added claims 18-37 correspond to the claims of the presently co-pending application Serial No. 08/325,549. At this time, Applicant does not intend to file a response in the co-pending application Serial No. 08/325,549. Thus, co-pending application Serial No. 08/325,549 will go abandoned and the provisional rejection of claims 1, 2 and 17 under the Judicially Created Doctrine of Obviousness-Type Double Patenting will be alleviated.

VII. CONCLUSION

With this Amendment, claims 1, 2, 15 and 17 are amended and claims 12-14 are canceled. Claims 18-37 are added. Based upon the above remarks and amended claims, it is submitted that claims 1, 2 and 15-37 are patentably distinct over the prior art of record. The

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above amendments place the application in condition for allowance or in better form for appeal.
Reconsideration and allowance of the above claims are requested.

The Commissioner is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 11-0982.

Respectfully submitted,

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